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SOVIET PUNITIVE ACTIONS AGAINST GERMAN PRISONERS OF WAR

Repatriated prisoners of war report a series of punitive regulations affecting numerous prisoners of war in the Soviet Union. These regulations established the collective guilt of entire military units, frequently making each member of such groups guilty by the mere fact of membership. As a consequence, many prisoners were sentenced to years of forced labor without trial and without having been informed of their crime.

Some (non-Communist) newspapers have sought to explain these sentences on the grounds of minor crimes (such as the theft of a few chickens), but such reports are apt to result in misinterpretation of the entire problem. The vast majority of the prisoners of war convicted in the USSR are given sentences of up to 25 years in labor and reform camps. These sentences are based on Paragraph 58 of the criminal code of the RSFSR, and, in the case of sentences enforced by courts of Soviet Republics outside the realm of the RSFSR, on a decree of the Supreme Soviet of the USSR dated 14 April 1943, in conjunction with Paragraph 17 of the criminal code of the RSFSR.

Paragraphs 58 and 59 of the RSFSR criminal code cover counterrevolutionary crimes and are applicable chiefly to potential enemies of the people. Sections 4 and 11 of Paragraph 58 are of special significance for prisoners of war. Section 4 reads: "Every kind of support lent to those elements of the international bourgeoisie who fail to recognize the full equality of the Communist system, which is replacing the capitalist system, and who aim at the overthrow of the Communist system, or to those social groups and organizations which are under the influence of said bourgeoisie or are engaged in activities inimical to the USSR ... shall constitute counterrevolutionary crimes." Section 11 reads: "Organizational activity in connection with preparations for or commission of crimes mentioned hereunder, or participation in an organization formed for the commission of such crimes, will be punished by the measures for social protection (labor and penal camps) as set forth in this paragraph."

Thus, according to Paragraph 58, every person belonging to a unit which commits a crime can be sentenced for the mere fact of membership, even if such person has neither caused, committed, nor been aware of the crime charged against the organization. It is irrelevant whether or not the individual was a member of

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the unit at the time the crime was committed, or was on furlough, or had already been separated from the organization. Formal membership is tantamount to collaboration or guilt. Without regard to international military law, Soviet courts have declared entire Wehrmacht units to be criminal organizations. The reason for which a unit is deemed to be criminal in character is determined by the political authorities prior to the proceedings. For example, a 5-minute trial sufficed to establish that the Brandenburg Division was an espionage and sabotage organization, and to sentence every member of it to 25 years in labor and reform camps.

Sentences are most frequently based on the decree of 19 April 1943 of the Supreme Soviet of the USSR, which includes a summary list of punishable acts such as maltreatment and killing of prisoners of war and of civilians, crimes which carry the death penalty. In practice, corporal punishment is commuted to 25 years imprisonment in labor and reform camps. The decree is generally applied in conjunction with Paragraph 17 of the criminal code of the RSFSR.

According to Paragraph 17, corrective measures for social protection (labor and reform camps) are applicable to the instigator, the perpetrator, and the accessories. Instigators are those who have influenced the perpetrators to commit the crimes. Accessories are persons implicated in crimes by the fact of their having made available ways and means, by having removed obstacles, or by having concealed perpetrators or clues. The mere fact of former membership in a military unit which assigned civilians to remove mines makes individuals liable to punishment.

It can hardly be determined what prompted the USSR authorities in their selection of the prisoners of war whom they relegated to penal camps. Some were sentenced for participation in guerrilla warfare, others for membership in the civilian SS from 1934 - 1935, still others because they had belonged to home-guard units assigned to prisoner-of-war patrol.

Brevity was common to all trials, which frequently lasted only a few minutes. Sentence was based, in most cases, on the confessions of the accused. Those who had always abided by the rules of international warfare and who, therefore, had a clear conscience felt free to relate their entire military career to the interrogating officer, especially since they were threatened with 2 years in labor and reform camps for giving false testimony. The evidence revealed in such hearings later became the basis for conviction.

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